

SENATE, No. 3501

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED NOVEMBER 9, 2017

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Revises process for development and administration of Transportation Trust Fund projects and capital program oversight; establishes transportation research center.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/5/2017)

1 AN ACT concerning the administration of Transportation Trust Fund
2 projects and supplementing Title 27 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. For each capital project funded by the authority,
8 including transportation projects and public transportation projects,
9 the authority, in conjunction with the department and the New
10 Jersey Transit Corporation, may contract with consulting engineers
11 to prepare an estimated project schedule (1) for the acquisition of
12 rights-of-way and (2) for the construction of each project. The
13 consulting engineer shall also estimate the amounts which shall be
14 required during each six-month period for estimated costs of
15 construction of each project. Thereafter, at least once in each six-
16 month period during the construction of a project, the authority may
17 require the consulting engineers to prepare a progress report
18 updating the project schedule for the acquisition of real property for
19 each project and construction progress, which may include
20 comparisons of the actual time elapsed, actual costs, estimated time
21 to completion, and estimated total cost between the most recent six-
22 month period and those same actual and estimated times and costs
23 in prior progress reports. Copies of each progress report shall be
24 maintained on the authority's website and shall be submitted to the
25 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
26 19.1), to the Legislature.

27 b. For funds provided by the authority to the department or the
28 New Jersey Transit Corporation for non-project costs, the authority
29 may contract with an outside consultant to prepare a report which
30 tracks, according to State capital program line items in each annual
31 appropriations act, an estimated schedule for the expenditure of
32 appropriated funds, and a description of how funds are being
33 expended, including, but not limited to, contracts to be paid from
34 each capital program line item, the amount of staff or outside
35 consultants to be paid from each capital program line item, and
36 measurable policy outcomes relating to each capital program line
37 item which shall be required during each six-month period until an
38 appropriation has been fully expended. Once in each six-month
39 period in which the State appropriations of non-project
40 transportation capital funds in a given fiscal year have not been
41 fully expended, including if that period extends beyond the fiscal
42 year of the original appropriation, the authority may cause the
43 outside consultant to prepare a progress report covering the
44 expenditure of appropriated funds and any progress in
45 accomplishing the purpose of given appropriations, which may
46 include comparisons of the actual time elapsed since the initial
47 appropriation, actual expenditures from the appropriation, estimated
48 time to completely expend appropriated funds, and estimated

1 measurable outcomes for the entire appropriation between the most
2 recent six-month period and those same actual and estimated times
3 and outcomes in prior progress reports. Copies of each progress
4 report shall be maintained on the authority's website and shall be
5 submitted to the Governor and, pursuant to section 2 of P.L.1991,
6 c.164 (C.52:14-19.1), to the Legislature.

7
8 2. a. In order to ensure the expeditious completion of public
9 highway projects, the department shall coordinate with
10 municipalities and counties to expedite project delivery.

11 b. The department shall develop, in conjunction with county
12 officials, an annual highway project priority list for each county.
13 The department shall present to county officials in each county a
14 list of State highway pavement areas rated below acceptable
15 condition and structurally deficient State bridges located in the
16 county. The county may select highway pavement areas and
17 bridges from that list that it deems to be priority repairs to be placed
18 on the highway project priority list. Once a project has been added
19 to the highway project priority list, the department shall have three
20 fiscal years to advance that project through all phases of work and
21 complete the project, regardless of which phase of work the project
22 is in at the time it is added to the highway project priority list.

23 Notwithstanding any other provision of law, the annual highway
24 project priority list, as well as any reports, lists, surveys, data, or
25 other documents created for the purpose of preparing the annual
26 highway project priority list, shall not be subject to discovery or
27 admitted into evidence in any federal or State court proceeding or
28 considered for other purposes in any action for damages arising
29 from any occurrence at a location mentioned or addressed in any
30 such annual highway project priority list, reports, lists, surveys,
31 data, or documents.

32 c. A county may add projects to the highway project priority
33 list each fiscal year with an estimated total cost that is equivalent to
34 or less than the amount that is to be granted to that county in that
35 fiscal year from the formula established in subsection e. of section
36 25 of P.L.1984, c.73 (C.27:1B-25) through the Local County Aid
37 Program.

38 d. If a project on the highway project priority list is not
39 completed within three years of that project's inclusion on the
40 highway project priority list, a county may notify the department
41 that the county intends to take over the project.

42 e. Once the department has been notified of a county's intent to
43 take over a project on the highway project priority list, the
44 department and notifying county shall confer regarding whether the
45 decision to allow the county to take over the project is cost-
46 effective and will expedite completion of the project. The
47 department shall have the discretion to determine whether to
48 transfer the project to the county based on whether the transfer is

1 cost-effective and will expedite completion of the project. If the
2 department agrees to transfer the project, the department shall have
3 90 days from the date it agrees to the transfer to transfer all aspects
4 of the project to the engineering department of the notifying county.

5 f. The costs of any project transferred to a county pursuant to
6 this section shall be fully funded by the department on a
7 reimbursement basis. If the cost of the project exceeds existing
8 capital program appropriations for that project, the department shall
9 include in the capital program any additional amounts needed to
10 complete the project.

11 g. The highway project priority list shall contain only State
12 transportation projects. If a State project on the highway project
13 priority list is transferred to a county pursuant to the provisions of
14 this section, completion of the project shall continue to be funded
15 through department capital program appropriations. Grant funds
16 awarded through the Local Aid Program pursuant to section 25 of
17 P.L.1984, c.73 (C.27:1B-25) shall not be used on any project on the
18 highway project priority list.

19 h. If the department and a county agree that a county is better
20 suited to advance a project on the highway project priority list, the
21 department may also enter into an agreement with the county to
22 transfer a project to the county notwithstanding that the project has
23 been on the list for less than three years.

24 i. All transportation project included in the highway project
25 priority list and transferred by the department pursuant to
26 subsection e. or subsection h. of this section shall comply with
27 section 24 of P.L.1984, c.73 (C.27:1B-24), chapters 32 through 35
28 of Title 52 of the Revised Statutes, and any other provision of law
29 concerning the State's public bidding requirements and business
30 set-aside programs.

31

32 3. a. As used in this section:

33 "Project bundle" means any group of transportation projects that
34 are combined into a single contract under the bundling program.

35 "Transportation Project Bundling Program" or "bundling
36 program" means a department process where multiple transportation
37 project design contracts, funded in whole or in part by the
38 Transportation Trust Fund, are combined into a single
39 transportation project design contract for the purposes of saving the
40 department time or money.

41 b. The Transportation Project Bundling Program is hereby
42 established within the department to save time and money on
43 transportation projects by allowing multiple transportation projects
44 to be combined into a single design contract.

45 c. All transportation projects, including but not limited to,
46 transportation projects contained in the department's bridge
47 inspection, safety, and pavement asset management systems, and
48 any transportation assets identified by the department as being in

1 need of repair, shall be included in the bundling program if the
2 projects meet all of the following criteria: (1) the transportation
3 projects are similar in complexity, in the same capital investment
4 strategy (CIS) asset category, or are in reasonable geographical
5 proximity to one another; (2) the transportation projects are of
6 similar size or design; and (3) the inclusion of transportation
7 projects in the bundling program will provide the department with
8 cost or time savings.

9 d. The commissioner shall develop the bundling program with
10 the following minimum requirements:

11 (1) The department shall annually develop a preliminary list of
12 transportation projects that are intended to be included in project
13 bundles. The department shall identify project bundles for different
14 regions of the State for geographically combinable transportation
15 projects and project bundles on a Statewide basis for similar
16 transportation project types and similar CIS asset categories. The
17 preliminary list shall include all transportation projects meeting the
18 eligibility requirements established in subsection c. of this section;

19 (2) The department shall notify any local government entity that
20 is substantially impacted by the project bundles recommended for
21 inclusion in the bundling program. The department shall also
22 distribute the preliminary list to the North Jersey Transportation
23 Planning Authority, the South Jersey Transportation Planning
24 Organization, and the Delaware Valley Regional Planning
25 Commission; and

26 (3) Once the department has obtained all of the necessary
27 approvals for transportation projects in the bundle from applicable
28 governmental entities, the department shall annually, publicly issue
29 a final list of transportation projects to be included in the bundling
30 program, prior to issuing the respective contracts for project
31 bundles.

32 e. Notwithstanding any other law to the contrary,
33 transportation projects determined to be eligible and recommended
34 for inclusion in the bundling program by the department shall not
35 require specific itemization in a capital budget, but any capital
36 funds expended on the bundling program shall be provided for in a
37 single capital program line item for each project bundle under the
38 bundling program.

39 f. Any transportation projects included in the bundling
40 program established pursuant to subsection b. of this section shall
41 comply with section 24 of P.L.1984, c.73 (C.27:1B-24), chapters 32
42 through 35 of Title 52 of the Revised Statutes, and any other
43 provision of law concerning the State's public bidding requirements
44 and business set-aside programs.

45
46 4. a. There is hereby established within the Department of
47 Transportation, the New Jersey Transportation Research Center,
48 hereinafter referred to as the center.

b. The center shall be located within the Department of Transportation, and the center shall award research contracts to New Jersey public research institutions of higher education to conduct the research activities of the center. The award of those research contracts shall be subject to all relevant existing State and federally established public bidding regulations and processes.

c. The center shall identify specific areas of transportation expertise at New Jersey public research institutions of higher education, where all research undertaken by the center in that area of expertise is to occur, and shall be subject to all relevant existing State and federally established public bidding regulations and processes.

d. The Commissioner of Transportation shall appoint a director for the center. The duties of the director shall include but not be limited to:

- (1) Administering and operating the center;
- (2) Overseeing research undertaken by the center;
- (3) Establishing and maintaining relationships with New Jersey public research institutions of higher education; and
- (4) Supporting New Jersey public research institutions of higher education in obtaining and maintaining University Transportation Center status under the United States Department of Transportation Federal Highway Administration's University Transportation Center Program.

5. The Department of Transportation shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

6. This act shall take effect immediately.

STATEMENT

This bill revises the process by which capital projects authorized to be paid for through the New Jersey Transportation Trust Fund are to be administered.

Capital Program Consultant Reports

The Transportation Trust Fund Authority (authority) may hire engineering consultants to generate bi-annual reports which identify, for each transportation project and public transportation project, the progress achieved in expending capital funds and the progress achieved in completing capital projects. The authority may also hire an outside consultant to generate a bi-annual report on all non-project line items in the annual capital program that are not included in the engineering consultant's report. This report is to

1 focus on the progress achieved in expending funds appropriated in
2 the capital program and provide a description of how those funds
3 are being expended, including but not limited to, contracts,
4 employment levels, and measurable outcomes relating to each
5 capital program line item.

6 7 Highway Project Priority List

8 The bill requires the Department of Transportation (department)
9 to develop an annual highway project priority list for each county.
10 The highway project priority list is a list of State highway projects
11 chosen by the counties in which the projects are located, from a
12 secondary list provided by the department to the counties of all
13 structurally deficient State bridges and State highway pavement
14 areas in less than acceptable condition. The annual highway project
15 priority list, and all documents created for the annual highway
16 project priority list are not to be subject to discovery or admitted
17 into evidence in any federal or State court proceeding. The dollar
18 amount of projects that a county can add to the list each year is
19 limited by the amount of grant money a county is statutorily
20 scheduled to receive each year through the local county aid
21 program. If the State is unable to complete a project on the
22 highway project priority list within three fiscal years, the county
23 can confer with the department, and if the department finds that
24 allowing the county to take over the project is cost-effective and
25 will expedite completion of the project, the department can transfer
26 the project to the county. The department is to remain responsible
27 for the cost of the project and provide payments to the county for
28 the cost of the project on a reimbursement basis. If the department
29 and county agree that a county is better suited to complete a project
30 on the list, the department and county can also form an agreement
31 and transfer the project in less than three years. For all projects on
32 the list, regardless of whether a county has taken over completion of
33 a project, local aid program funds are not to be used for these
34 projects. All projects are State projects and are to be funded with
35 department capital appropriations. Projects on the list that are
36 transferred to a county are still required to adhere to all existing
37 State procurement laws, including those applying to bidding and
38 business set-asides.

39 40 Project Bundling

41 The bill requires the department to bundle the design of certain
42 transportation projects funded, in whole or in part, by the
43 Transportation Trust Fund. Projects that are eligible to be bundled
44 are projects of similar complexity, project type, or geographic
45 proximity, that are of similar size or design, and whose inclusion in
46 the program will save the department time or money. The purpose
47 of the program is to save costs and time by allowing multiple
48 transportation projects to be designed under a single contract.

1 Contracts issued under the bundling program are still required to
2 adhere to all existing procurement laws, including those applying to
3 bidding and business set-asides.

4

5 New Jersey Transportation Research Center

6 This bill establishes the New Jersey Transportation Research
7 Center (center) within the department. The Commissioner of
8 Transportation is to appoint a director of the center. The director is
9 to award research contracts to New Jersey public research
10 institutions of higher education (institutions). The center is to
11 identify specific areas of expertise for institutions. The institutions
12 are to conduct research for the center in their areas of expertise,
13 pursuant to research contracts that are awarded in a manner that is
14 subject to all relevant existing State and federally established public
15 bidding regulations and processes. In addition to operating and
16 administering the center and awarding research contracts, the
17 director is responsible for supporting institutions in obtaining and
18 maintaining status as University Transportation Centers under the
19 United States Department of Transportation Federal Highway
20 Administration University Transportation Centers Program.